

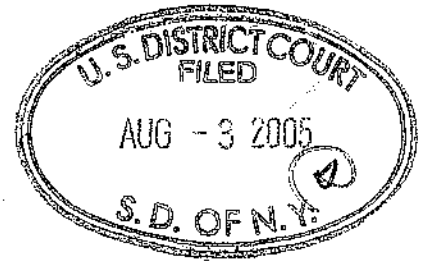
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT M. SHEMWELL, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA



WILLIAM DANERIS AZIZE, A30143174 : 04 Civ. 9684 (SHS)

Petitioner, :

-against- : ORDER

BUREAU OF CITIZENSHIP AND
IMMIGRATION SERVICE, ET AL.,

CV05 - 1985 M SEC P

Respondents.

JUDGE JAMES

SIDNEY H. STEIN, U.S. District Judge.

MAGISTRATE JUDGE HAYES

Petitioner *pro se* William D. Azize challenges a final order of removal and also seeks release from detention on bail during the pendency of the petition. The government has requested that the Court transfer this petition to the United States Court of Appeals for the Second Circuit pursuant to the Real ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005), and petitioner subsequently agreed that transfer is appropriate.

On July 18, 2005, Magistrate Judge James C. Francis IV issued a Report and Recommendation in which he recommended that the case be bifurcated, the petition be transferred to the United States Court of Appeals for the Second Circuit, and the bail application be decided by this Court.

On July 27, the government agreed with the Magistrate's recommendation that this Court bifurcate the proceedings and transfer the Petition, to the extent it challenges the removal order, to the United States Court of Appeals for the Second Circuit. However, the government objected to the Magistrate Judge's Report and Recommendation to the extent the

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bail application would be determined later by this Court, arguing that the request for bail should be dismissed, transferred, or denied. The government's objections are premature, however, insofar as the Report and Recommendation makes no recommendation in regard to the request for release from detention on bail; that determination awaits a determination by the Magistrate Judge, which has not yet been rendered.

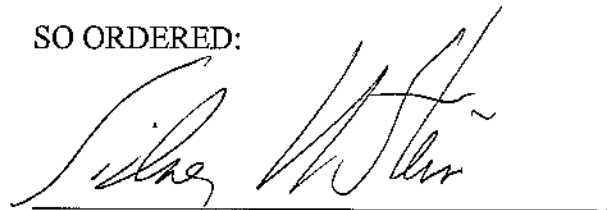
Accordingly, after a *de novo* review of Magistrate Judge Francis' Report and Recommendation dated July 18, 2005, and the government's "Partial Objections,"

IT IS HEREBY ORDERED that:

1. The petition is bifurcated;
2. The petition is transferred to the United States Court of Appeals for the Second Circuit pursuant to the Real ID Act as a Petition for Review to the extent it challenges the order to remove petitioner;
3. Petitioner's removal is stayed pending further order of the Second Circuit;
4. The Clerk of Court is directed to transfer to the Court of Appeals that portion of the district court record which relates to the Petition for Review; and
5. This Court retains jurisdiction over the application for release from detention on bail.

Dated: New York, New York
August 2, 2005

SO ORDERED:



Sidney H. Stein, U.S.D.J.